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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ANTOINETTE CALLOW,

10 Plaintiff,

11 v.

12 THE PRUDENTIAL INSURANCE COMPANY
13 OF AMERICA, et al.,

14 Defendants.

CASE NO. C07-1247SM

ORDER DIRECTING
SUPPLEMENTAL BRIEFING

15 The Court, having reviewed plaintiff's response to the Order to Show Cause (Dkt. # 36) and the
16 balance of the record, does now find and ORDER:

17 (1) It appears from plaintiff's response that the parties are still in dispute regarding the
18 admissibility of extrinsic evidence in this case, and the resulting scope of the trial of the issues in this
19 matter.¹ When conducting *de novo* review of the administrator's decision, this Court should exercise its
20 discretion to hear evidence outside the record **only** when circumstances **clearly establish** that the
21 additional evidence is **necessary** to conduct an adequate review. *Opeta v. NW Airlines Pension Plan*,
22 484 F. 3d 1211 (9th Cir. 2007) (quoting *Mongeluzo v. Baxter Travenol Long Term Disability Benefit*
23 *Plan*, 46 F. 3d 938, 944 (9th Cir. 1995) (emphasis in original).

24 Accordingly, the parties shall submit additional briefing on the necessity of extrinsic evidence,
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26 ¹The parties have brought this dispute to the Court's attention on two prior occasions. Dkt. ##
27 15, 27. In each instance, the matter was decided on procedural grounds, and the Court never had the
28 opportunity to reach the merits of the question.

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March 13, 2009

March 23, 2009

March 27, 2009

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